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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/807,638
Filing Date: July 11, 2001
Appellant(s): BOECKMANN ET AL.

Mr. Clifford A. Ulrich
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/15/2006 appealing from the Office action mailed 8/19/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

4,359,713	TSUNODA	11-1982
4,400,787	MANDEL et al	08-1983
5,007,095	NARA et al	04-1991
5,584,052	GULAU et al	12-1996
5,864,805	CHEN et al	01-1999
6,173,266	MARX et al	01-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 11-18, 21-23, and 28-29 stand rejected under 35 U.S.C 102(b) as being anticipated by Tsunoda *(U.S. Patent: 4,359,713)*. This rejection is set forth in a prior Office Action, mailed on 08/19/2005.

Claim 19 stands rejected under 35 U.S.C 103(a) as being unpatentable over Tsunoda *(U.S. Patent: 4,359,713)* in view of Gulau et al *(U.S. Patent: 5,584,052)*. This rejection is set forth in a prior Office Action, mailed on 08/19/2005.

Claims 20 and 26 stand rejected under 35 U.S.C 103(a) as being unpatentable over Tsunoda *(U.S. Patent: 4,359,713)* in view of Marx et al *(U.S. Patent: 6,173,266)*. This rejection is set forth in a prior Office Action, mailed on 08/19/2005.

Claim 24 stands rejected under 35 U.S.C 103(a) as being unpatentable over Tsunoda *(U.S. Patent: 4,359,713)* in view of Marx et al *(U.S. Patent: 6,173,266)* and further in view Nara et al *(U.S. Patent: 5,007,095)*. This rejection is set forth in a prior Office Action, mailed on 08/19/2005.

Claim 25 stands rejected under 35 U.S.C 103(a) as being unpatentable over Tsunoda *(U.S. Patent: 4,359,713)* in view of Marx et al *(U.S. Patent: 6,173,266)* and further in view Mandel et al *(U.S. Patent: 4,400,787)*. This rejection is set forth in a prior Office Action, mailed on 08/19/2005.

Claim 27 stands rejected under 35 U.S.C 103(a) as being unpatentable over Tsunoda *(U.S. Patent: 4,359,713)* in view of Marx et al *(U.S. Patent: 6,173,266)* and further in view Chen et al *(U.S. Patent: 5,864,805)*. This rejection is set forth in a prior Office Action, mailed on 08/19/2005.

(10) Response to Argument

The appellants traverse the prior art rejection of independent claims 11 and 21 on the basis that Tsunoda fails to teach or even suggest "outputting information or speech using an intonation in accordance with a relevance" *(Appeal Brief, Pages 3-4 with respect to Claim 11 and Pages 7-8 with respect to Claim 21)*. Before addressing the appellants' specific points of the aforementioned argument, the examiner will provide a summary of the Tsunoda reference as applied to independent claims 11 and 21.

Overview of the prior art as applied to the independent claims:

With respect to Claims 11 and 21, Tsunoda discloses a method and system for outputting voice messages in a vehicle application wherein the voice messages are stored in and selectively read from a voice memory *(Col. 3, Lines 24-35)*. These steps in Tsunoda correspond to the claimed limitations regarding the storing and selective reading of at least one of information and status messages.

In Tsunoda, different priorities are associated with different types of messages. For example, a warning message associated with a fuel level is more important or urgent to vehicle performance than a message associated with windshield washer fluid *(Col. 5, Lines 16-41)*. In order for a user to be able to readily distinguish a "priority according to [an] importance" between the multiple types of messages *(Col. 7, Lines 49-68)*, Tsunoda teaches that a voice message is output with a specific tone, pitch, and

loudness *(Col. 5, Lines 16-41; and Col. 7, Lines 49-68)*. This outputting of a voice message in a tone, pitch, and loudness based on an "order of priority according to an importance" *(Col. 7, Lines 49-53)* in Tsunoda corresponds to the claimed limitation regarding "outputting the at least one of information and status messages on an output device using an intonation in accordance with a relevance.

Response to the appellants' arguments:

Returning to the appellants' specific arguments, with respect to Claim 11, the appellants first argue: "nowhere does Tsunoda disclose, or even suggest, outputting information or speech using an intonation in accordance with a relevance." The appellants further support such arguments by arguing that Tsunoda does not disclose varying pitch or tone depending on a relevance *(Appeal Brief, Pages 3-4)*. In response to such arguments, the examiner points out that the features upon which appellant relies *(i.e., variation or adjustment in pitch or tone depending on a relevance)* are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Instead, the claimed invention requires only that a message be outputted using an intonation in accordance with a relevance. In Tsunoda, a voice is output with a pitch, tone, and loudness to enable a user to distinguish an "order of priority according to [an] importance" (i.e., relevance) of voice messages in a vehicle application *(Col. 7, Lines 49-68)*. Such pitch and tone value information is stored in a memory unit of the speech

synthesizer *(Col. 6, Lines 55-60; and Fig. 3, Element 32)*, which is in communication with various vehicle-monitoring signals, while the loudness is based on a volume selector *(Fig. 1, Element 13)*. Tsunoda also recites different levels of priority in voice messages. For example, a fuel related message would have a higher level of urgency or importance (relevancy) than a message associated with windshield washer fluid *(Col. 5, Lines 15-41)*. Tsunoda provides the benefit of allowing a user to recognize the more important messages by outputting a voice in a specific pitch, tone, and loudness *(Col. 7, Lines 49-68)*. Thus, the appellants' arguments with respect to Claim 11 have been fully considered, but are not convincing.

With respect to Claim 13, the appellants traverse the art rejection for the same reasons as claim 11. Accordingly, the examiner points out that the response to these arguments would be the same as those applied above to claim 11. Further, in response to appellants' argument that the references fail to show certain features of appellants' invention, it is noted that the features upon which appellants rely (i.e., varying intonation, Appeal Brief, Page 5) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Instead, claim 13 only requires that a message be outputted using an command intonation for messages requiring immediate action. In Tsunoda, a message in the form of a command *(Col. 3, Lines 24-35 and Col. 5, Lines 16-41)* is outputted with a specific pitch, loudness, and tone in accordance with an importance or urgency (Col. 7, Lines 49-68) to enable a user to distinguish between different types of voice

messages. Thus, the appellants' arguments with respect to Claim 13 have been fully considered, but are not convincing.

With respect to Claim 16, the appellants traverse the art rejection for the same reasons as claim 11. Accordingly, the examiner points out that the response to these arguments would be the same as those applied above to claim 11. With respect to Claim 16, the appellants further argues that Tsunoda fails to teach "changing the speaking voice for the at least one of information and status messages requiring immediate action" *(Appeal Brief, Pages 5-6)*. In response, the examiner points out that Tsunoda discloses that a voice may be selected for a particular message (voice output selector, Fig. 1, Element 10) and used to distinguish an important message from an unimportant message *(for example male/female voice selection based on message priority, Col. 7, Lines 49-68)*. Thus, the appellants' arguments with respect to Claim 16 have been fully considered, but are not convincing.

With respect to Claim 17, the appellants traverse the art rejection for the same reasons as claim 11. Accordingly, the examiner points out that the response to these arguments would be the same as those applied above to claim 11. With respect to Claim 17, the appellants further argue that Tsunoda fails to teach or even suggest "increasing an intonation of information or status messages if they require immediate action" *(Appeal Brief, Page 6)*. In response, the examiner points out that Tsunoda discloses outputting voice information using different tone, pitch, and loudness parameters *(Col. 7, Lines 62-64)*, wherein louder or raised voice parameters are utilized

for urgent messages *(Col. 5, Lines 16-41)*. Thus, the appellants' arguments with respect to Claim 17 have been fully considered, but are not convincing.

With respect to Claim 18, the appellants traverse the art rejection for the same reasons as claim 11. Accordingly, the examiner points out that the response to these arguments would be the same as those applied above to claim 11. With respect to Claim 18, the appellants further argue that Tsunoda fails to teach or even suggest "decreasing connotation for information or status messages if they do not require immediate action" *(Appeal Brief, Page 7)*. In response, the examiner points out that Tsunoda discloses outputting voice information using different tone, pitch, and loudness parameters *(Col. 7, Lines 62-64)* to enable a user to distinguish a message importance, wherein softer or lower voice parameters are utilized for non-urgent messages *(Col. 5, Lines 16-41)*. Such lower voice parameters taught by Tsunoda suggest *(i.e. connote)*, to a user, lowered or decreased importance as compared to a message having higher voice parameters. Thus, the appellants' arguments with respect to Claim 18 have been fully considered, but are not convincing.

With respect to Claims 21 and 29, the appellants traverse the art rejection for the same reasons as claim 11. Accordingly, the examiner points out that the response to these arguments would be the same as those applied above to claim 11.

With respect to Claim 23, the appellants traverse the art rejection for the same reasons as claim 16. Accordingly, the examiner points out that the response to these arguments would be the same as those applied above to claim 11. With respect to Claim 23, the appellants further argue that Tsunoda fails to teach or even suggest"

using a particular one of a male voice and a female voice depending on whether information or status messages to be output require immediate action" *(Appeal Brief, Page 9)*. In response, the examiner notes that Tsunoda discloses the ability to select a particular voice based on an importance using a voice selector. The particular voice used can be male or female and assigned to a message based on a priority of importance *(Col. 7, Lines 49-68)*. Thus, Tsunoda does disclose "using a particular one of a male voice and a female voice depending on whether information or status messages to be output require immediate action" and the appellants' arguments with respect to Claim 23 are not convincing.

With respect to Claim 19, the appellants traverse the art rejection for the same reasons as claim 11 *(Appeal Brief, Page 9)*. Accordingly, the examiner points out that the response to these arguments would be the same as those applied above to claim 11.

With respect to Claims 20 and 26, the appellants traverse the art rejection for the same reasons as claim 11. Accordingly, the examiner points out that the response to these arguments would be the same as those applied above to claim 11. With respect to Claims 20 and 26, the appellants further argue that Marx fails to teach "changing a dialog-communication level in response to a failure to interact with a last of successive alternatives" *(Appeal Brief, Pages 10-11)*. In support of such arguments, the appellants cite an example in which there are 100 alternative prompts and a threshold interaction retry number of 50 *(Appeal Brief, Pages 10-11)*. In such a case, the appellants suggest the last of the prompt alternatives would not be reached because only half of the

prompts would have been issued. In response, the examiner points out that the language of the claim recites changing the dialog-communication level in response to a failure to interact with *a* last of the successive alternatives, as opposed to the last of the plurality of alternatives stored in a speech memory. In the case of Marx, *a* last of successive prompt alternatives would be the final prompt issued when a threshold number of retries is reached *(Col. 13, Lines 12-67)* and a fallback dialog mode would be initiated. Also, in Marx, the threshold number of alternative prompt retries is based on a designer setting *(Col. 13, Lines 23-39 and see also Fig. 16)*. Thus, if the dialog designer wanted a user to hear all available voice prompts if successive interaction failures should occur, the threshold could be set to the number of available prompts. For example, if a threshold level was set to 3 and there were 3 alternative voice prompts, a user would be taken to a fallback dialog mode if a user failed to interact with the third or last prompt. Also, the examiner points out that the example of 100 retry prompts seems unlikely based on the teachings of Marx. The aim of the fallback mode taught by Marx is to prevent user frustration *(Col. 3, Lines 8-9)*. Requiring a user to retry an interaction 50-100 times would surely frustrate a user, and thus, not seem to be within the intention of the fallback mode taught by Marx. Thus, for all of the above reasons, the appellants' arguments with respect to Claims 20 and 26 are not convincing.

With respect to Claim 24, the appellants traverse the art rejection for the same reasons as claim 20. Accordingly, the examiner points out that the response to these arguments would be the same as those applied above to claim 20. With respect to

Claim 24, the appellants further argue that Nara fails to teach randomizing a sequence of an output of stored alternative of information of status messages *(Appeal Brief, Pages 11-12)*. In response to appellants' arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The examiner further points out that it is the combination of the teachings of Marx and Nara that discloses this limitation. As pointed out above, Marx teaches the concept of using alternative prompts if a failure of interaction occurs, while Nara discloses the concept that a specific speech synthesis output may be varied and produced based on a random number generator *(Col. 9, Lines 3-19)*. Thus, since Marx discloses the means to alter successive synthesized output prompts, and Nara discloses that varying a synthesized speech output can be performed using a random number generator, the appellants' arguments with respect to Claim 24 are not convincing.

With respect to Claim 25, the appellants traverse the art rejection for the same reasons as claim 20 *(Appeal Brief, Page 12)*. Accordingly, the examiner points out that the response to these arguments would be the same as those applied above to claim 20.

With respect to Claim 27, the appellants traverse the art rejection for the same reasons as claim 20 *(Appeal Brief, Pages 12-13)*. Accordingly, the examiner points out

that the response to these arguments would be the same as those applied above to claim 20.

With respect to the remainder of the dependent claims, the appellants traverse the art rejection for the same reasons as claim 11 *(Appeal Brief, Page 4)*. Accordingly, the examiner points out that the response to these arguments would be the same as those applied above to claim 11.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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Conferees:

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